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Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Argentina, Austria, Belgium, Brazil, Canada, Chile, Cyprus, Czech Republic, Denmark, Dominican Republic, El Salvador, Estonia, Finland, France, Germany, Greece, Guatemala, Hungary, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Netherlands, Norway, Panama, Poland, Portugal, Slovakia, Slovenia, Sweden, Switzerland, Timor-Leste, United Kingdom of Great Britain and Northern Ireland and Uruguay: draft resolution

Protection of human rights and fundamental freedoms while countering terrorism

The General Assembly,

Reaffirming the purposes and principles of the Charter of the United Nations,

Reaffirming also the fundamental importance, including in response to terrorism and the fear of terrorism, of respecting all human rights and fundamental freedoms and the rule of law,

Recalling that States are under the obligation to protect all human rights and fundamental freedoms of all persons,

Recognizing that the respect for human rights, the respect for democracy and the respect for the rule of law are interrelated and mutually reinforcing,

Recalling its previous resolutions 57/219 of 18 December 2002 and 58/187 of 22 December 2003 as well as Commission on Human Rights resolutions 2003/68 of 25 April 2003[1] and 2004/87 of 21 April 2004,[2]

[1] See *Official Records of the Economic and Social Council, 2003, Supplement No. 3* (E/2003/23), chap. II, sect. A.
[2] See ibid., *2004, Supplement No. 3* (E/2004/23), chap. II, sect. A.

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Recalling also its resolution 48/141 of 20 December 1993 and, inter alia, the responsibility of the United Nations High Commissioner for Human Rights to promote and protect the effective enjoyment of all human rights,

Reaffirming that acts, methods and practices of terrorism in all its forms and manifestations are activities aimed at the destruction of human rights, fundamental freedoms and democracy, threatening territorial integrity, security of States and destabilizing legitimately constituted Governments, and that the international community should take the necessary steps to enhance cooperation to prevent and combat terrorism,[3]

Noting the declaration on the issue of combating terrorism contained in the annex to Security Council resolution 1456 (2003) of 20 January 2003, in particular the statement that States must ensure that any measures taken to combat terrorism comply with all their obligations under international law and should adopt such measures in accordance with international law, in particular international human rights, refugee and humanitarian law,

Noting also the declarations, statements and recommendations by a number of human rights treaty monitoring bodies and special procedures on the question of the compatibility of counter-terrorism measures with human rights obligations,

Reaffirming its unequivocal condemnation of all acts, methods and practices of terrorism, in all their forms and manifestations, wherever and by whomsoever committed, regardless of their motivation, as criminal and unjustifiable, and renewing its commitment to strengthen international cooperation to prevent and combat terrorism,

Deploring the suffering caused by terrorism to the victims and their families, and expressing its profound solidarity with them,

Deploring also occurrences of violations of human rights and fundamental freedoms in the context of the fight against terrorism,

Stressing that everyone is entitled to all the rights and freedoms recognized in the Universal Declaration of Human Rights[4] without distinction of any kind, including on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

1. *Reaffirms* that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law;

2. *Reaffirms also* that States, in accordance with article 4 of the International Covenant on Civil and Political Rights,[5] are under the obligation to respect certain rights as non-derogable under any circumstances, recalls, in regard to all other Covenant rights, that any measures derogating from the provisions of the Covenant must be in accordance with that article in all cases, and underlines the exceptional and temporary nature of any such derogations, as stated in General

[3] A/CONF.157/24 (Part I), chap. III, para. 17.

[4] Resolution 217 A (III).

[5] See resolution 2200 (XXI), annex.

Comment No. 29, on states of emergency, adopted by the Human Rights Committee on 24 July 2001;[6]

3. *Calls upon* States to raise awareness about the importance of these obligations among national authorities involved in combating terrorism;

4. *Welcomes* the report of the Secretary-General submitted pursuant to resolution 58/187,[7] which expresses that it is imperative that all States work to uphold and protect the dignity of individuals and their fundamental freedoms, as well as democratic practices and the rule of law, while countering terrorism;

5. *Takes note with appreciation* of the study of the United Nations High Commissioner for Human Rights submitted pursuant to resolution 58/187,[8] which concludes that the United Nations has been unable to address the compatibility of national counter-terrorism measures with international human rights obligations in a comprehensive and integrated way;

6. *Encourages* States to make available to relevant national authorities the "Digest of Jurisprudence of the United Nations and Regional Organizations on the Protection of Human Rights while Countering Terrorism" and to take into account the provisions established therein, and requests the High Commissioner to update and publish it periodically;

7. *Welcomes* the ongoing dialogue established in the context of the fight against terrorism between the Security Council and its Counter-Terrorism Committee and the relevant bodies for the promotion and protection of human rights, and encourages the Security Council and its Counter-Terrorism Committee to strengthen the links and to continue to develop cooperation with relevant human rights bodies, in particular with the Office of the United Nations High Commissioner for Human Rights, giving due regard to the promotion and protection of human rights in the ongoing work pursuant to relevant Security Council resolutions relating to terrorism;

8. *Requests* all relevant special procedures and mechanisms of the Commission on Human Rights, as well as the United Nations human rights treaty bodies, to consider, within their mandates, the protection of human rights and fundamental freedoms in the context of measures to combat terrorism and to coordinate their efforts, as appropriate, in order to promote a consistent approach on this subject;

9. *Encourages* States, while countering terrorism, to take into account relevant United Nations resolutions and decisions on human rights, and encourages them to consider the recommendations of the special procedures and mechanisms of the Commission on Human Rights and the relevant comments and views of United Nations human rights treaty bodies;

10. *Welcomes* the appointment by the Commission on Human Rights of an independent expert on the question of protection of human rights and fundamental freedoms while countering terrorism, and encourages States to cooperate fully with him;

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[6] See HRI/GEN/1/Rev.6.

[7] A/59/404.

[8] A/59/428.

11. *Requests* the High Commissioner, making use of existing mechanisms, to continue:

(a) To examine the question of the protection of human rights and fundamental freedoms while countering terrorism, taking into account reliable information from all sources;

(b) To make general recommendations concerning the obligation of States to promote and protect human rights and fundamental freedoms while taking actions to counter terrorism;

(c) To provide assistance and advice to States, upon their request, on the protection of human rights and fundamental freedoms while countering terrorism, as well as to relevant United Nations bodies;

12. *Requests* the independent expert to finalize the report mandated by Commission on Human Rights resolution 2004/87 for presentation through the High Commissioner to the sixty-first session of the Commission on Human Rights, and, in that regard, requests him to take into account the debate held during the fifty-ninth regular session of the General Assembly;

13. *Requests* the Secretary-General to submit a report on the implementation of the present resolution to the Commission on Human Rights at its sixty-first session and to the General Assembly at its sixtieth session.